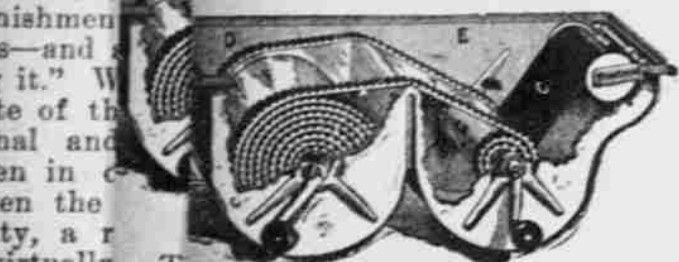


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VANILLA VINE ON THE EDWARDS' ESTATE AT NAPOOPOO.



IN EDWARDS' VANILLA ESTATE AT NAPOOPOO.

JUDGE ESTEE WILL NOT GIVE SNAP JUDGMENT

(Continued from page 5.)
against the public or a grant of a civil
right to a private person." Ib. 1133.
A Statute authorizing a third per-
son to bring an action to recover three
times the money value lost by gaming
is a penal statute. Cole vs. Grove, 134
Mass. 471.
Such an act is "not to be extended
by construction." Chase vs. Curtis,
114 U. S. 452, 28 L. E. 1049.
CONSTRUCTION OF STATUTE.
The statute in providing that the
penalty "may be sued for and recover-
ed by the United States or by any
person who shall first bring his ac-
tion therefor," intends to facilitate the
enforcement of the law in cases in
which the United States officials are
negligent or uninformed: the enrich-
ment of individuals is not intended by
the statute. If the United States had
first brought this action that would
have barred the plaintiff. While Con-
gress may authorize the Courts "to in-
vestigate and ascertain the facts on
which the right to land depends" yet
"on the other hand the final determina-
tion of those facts may be entrusted
by Congress to executive officers; and
in such a case, as in all others, in
which a statute gives a discretionary
power to an officer, to be exercised by
him upon his own opinion of certain
facts he is made the sole and exclu-
sive judge of the existence of those
facts, and no other tribunal, unless ex-
pressly authorized by law to do so,
is at liberty to re-examine or contro-
vert the sufficiency of the evidence on
which he acted." Eklv vs. U. S., 142
U. S. 651, 25 L. E. 1149.
The method authorized by Congress

for deciding upon the legality of the
immigration of these Korean has been
followed. The intention of Congress to
give Immigration Officers an oppor-
tunity to investigate and finally decide
these matters would be frustrated and
not promoted by allowing the plain-
tiff's suit.
WHEN DECISION IS FINAL.
Under statutes making decisions of
the officers final when adverse to the
alien, courts uniformly decline to re-
view such decisions, on the ground that
the jurisdiction of the executive tribu-
nal is exclusive. (Eight Federal cases
are here cited.)
There is no limitation on the finality
of the decision of the Special Board
of Inquiry under the Act of March 3,
1903. An appeal may be taken either
by a member of the Board or by the
alien. If not taken, the decision
"shall be final."
The same Act gives a private per-
son as well as the United States a
right not before granted, to sue in his
own name and for his own benefit; pro-
vided, however, that he shall bring suit
first. The former statute required the
proceeds of the suit to be paid into the
United States Treasury, and that the
United States District Attorney con-
ducted the suit. Rosenberg vs. Union
Iron Works, 109 Fed. 844.
This change in the law makes it all
the clearer that "a final decision" by
the United States official Board shall
not only end the controversy, as far
as the United States is concerned, but
shall also bar private suits.
That, by force of general law, the
United States may be barred from the
action for a forfeiture by a former
acquittal is held in Coffey vs. U. S.,
116 U. S. 436, 29 L. E. 687.
PLAINTIFF IS BARRED.
The plaintiff's right is necessarily

subordinate to that of the Government.
A final decision concludes all further
inquiry at the instance of any person,
as well as officials, upon the question
of the status of the alien.
The decision of the alien's status is
in the nature of a decision in rem, good
against all persons. 2 Freeman Judg-
ments, Secs. 606, 607. 1 Hermann Es-
toppel, Secs. 290, 294, 296.
The plaintiff's case is that of a tax
payer who is concluded by a judgment
against the municipality because he
has no other interest than that which
the municipality has. 1 Freeman Judg-
ments, Secs. 174, 178. McIntyre vs.
Williamson, 65 P. 244. Commissioners
vs. Beaver, 156 Ind. 45, 69 N. E. 159.
Whether as a judgment in rem, good
against the world, or a judgment bind-
ing the United States and therefore all
who have no private interest in the
matter, the decision is a bar to this
suit. See also U. S. vs. The Haytian
Rep., 154 U. S. 118, 129, 38 L. E. 934.
Wash. Alex. & G. P. Co. vs. Sickles,
72 U. S. 580, 18 L. E. 554.
Sec. 29, Act 1903, gives the United
States Circuit and District Courts
"full and concurrent jurisdiction of all
causes, civil and criminal arising un-
der any of the provisions of this Act."
This was the precise language of the
earlier statutes, under which Courts
declined, in cases of rejected aliens,
to take jurisdiction further than to as-
certain whether their cases had been
considered and decided by the offi-
cers charged with the administration
of the immigration laws. See Sec. 13,
Act March 3, 1891.
This plea is in the nature of a plea
of estoppel, and not technically a plea
in bar. 8 Ency. Pl. and Pr. 5. Heard
on Civil Pl. pp. 163, 164.
Pleas by way of estoppel are favor-
ed in law.

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